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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/537,632

07/25/2005

Mikael Hillforth

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EXAMINER

VALENTI, ANDREA M

ART UNIT

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3643

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/537,632	<b>Applicant(s)</b> HILLFORTH, MIKAEL	
	<b>Examiner</b> ANDREA M. VALENTI	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                            | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7, 9, 11-16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,673,647 to Pratt.

Regarding Claim 1, Pratt teaches an apparatus for detecting an animal having a body part and a head part (Pratt abstract, cattle), comprising: an animal passage extending in a transport direction, said passage being defined by a first enclosure member and a second enclosure member (Pratt Fig. 11A), which members are arranged on a respective side of the passage and extend substantially in parallel to said transport direction, and a sensor device which is arranged to sense the animal in the passage (Pratt Fig. 20A and 20B and Col.33 line 48-67), characterized in that wherein the sensor device is arranged to sense a parameter related to a cross-section size of the animal (Pratt Col. 6 line 38, line 62) at a determined position in the passage, and to produce a signal when the parameter fills a certain condition (Pratt Col.44 line 40; Col.7 line 30-50, applicant has not claimed the condition or what type of signal and Pratt teaches a visual signal by sorting into various lots based on where the animal falls in relation to a predetermined parameter e.g. weight, size, ownership, etc).

Regarding Claim 7, Pratt teaches the sensor device comprises at least a first sensor and a second sensor, wherein the first sensor is arranged to sense the presence of the animal at a first point of the passage and wherein the second sensor is arranged to sense the presence of the animal at a second point of the passage (Pratt Fig. 11A #384, 386, 388).

Regarding Claim 9, Pratt teaches the first point is located in the proximity of the first enclosure member whereas the second point is located in the proximity of the second enclosure member (Pratt Fig. 11A and 12A).

Regarding Claim 11, Pratt teaches a control member connected to the sensor device (Pratt abstract line 4, computer system).

Regarding Claim 12, Pratt teaches the control member (Pratt abstract line 4, computer system) is arranged to count the animals passing the animal passage in response to the sensing of the sensor device.

Regarding Claims 13, 14, 15 and 16, Pratt teaches a gate device (Pratt Fig. 2 and Fig. 5) arranged in the passage to take one of an open position and a closed position.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 8, 10 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,673,647 to Pratt.

Regarding Claims 2, 3 and 17-20, Pratt teaches that size dimensions are a factor in managing cattle and cattle are sorted base on size dimensions (Pratt col. 7 line 30-50), but is silent on explicitly teaching the sensor device is arranged to produce said signal when the value of said parameter indicates that the cross-section size of the animal is less than a predetermined value at the determined position or the width is the predetermined value. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Pratt at the time of the invention since the modification is merely the selection of a known taught parameter for monitoring selected in preparation for sale or slaughter of the animal.

Regarding Claim 10, Pratt is silent on the first sensor and the second sensor both are provided above the passage to sense the animal passing below the respective first and second sensors. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Pratt at the time of the invention since the modification is merely shifting the location of a known elements performing the same intended function for an efficient use of space, to prevent from damage caused by the animal kicking and for more accurate sensing [*In re Japiske*, 181 F.2d 1019, 1023, 86 USPQ 70, 73 (CCPA 1950)].

Regarding Claim 8, Pratt teaches the first point and the second point are both located at the determined position with regard to the transport direction but spaced apart from each other with a distance, wherein said distance is larger than the width of

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the head part, but is silent on the width being smaller than the width of the body part of an animal of a normal size to be guided through the animal passage. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Pratt at the time of the invention since the modification is merely a shift in location of a known element performing in the same intended function in a more confined space [*In re Japiske*, 181 F.2d 1019, 1023, 86 USPQ 70, 73 (CCPA 1950)].

Claims 4, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,673,647 to Pratt in view of U.S. Patent No. 4,745,472 to Hayes.

Regarding Claims 4, 5 and 6, Pratt as modified teaches measuring, but is silent on that wherein the determined direction is a substantially vertical direction; determined direction is a substantially vertically downward direction; determined direction is a substantially horizontal direction. However, Hayes teaches a vertical direction and a horizontal direction (Hayes Fig.1 #19 and 18). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Pratt with the teachings of Hayes to obtain desired measurements efficiently. The modification is merely the application of a known technique to a similar device yielding predictable results.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,625,302; U.S. Patent No. 3,619,628; U.S. Patent No. 6,239,711; U.S. Patent No. 4,726,322; U.S. Patent No. 7,128,024; U.S. Patent No.

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6,591,221; U.S. Patent No. 6,974,373; U.S. Patent No. 5,644,643; U.S. Patent No. 6,341,582; U.S. Patent No. 6,805,078; U.S. Patent No. 3,528,003; U.S. Patent No. 5,205,779.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREA M. VALENTI whose telephone number is (571)272-6895. The examiner can normally be reached on 6:00am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrea M. Valenti/  
Primary Examiner, Art Unit 3643

30 January 2008

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